

August 13, 2018

VIA ECF

The Honorable Sarah Netburn
United States Magistrate Judge
Thurgood Marshall United States Courthouse
United States District Court for the Southern District of New York
40 Foley Square, Room 430
New York, New York 10007

Coordinated RMBS Trustee Actions Against HSBC Bank, USA, N.A.,
Nos. 14-cv-08175, 14-cv-09366, 14-cv-10101, 15-cv-02144, 15-cv-10032, 15-cv-10096

Subject: Joint Letter Regarding Proposed Schedule and Status of Discovery

Dear Judge Netburn:

We write on behalf of the coordinated plaintiffs (“Plaintiffs”) and Defendant HSBC Bank, USA, N.A. (“HSBC”) (collectively, the “Parties”). Pursuant to the Court’s August 1, 2018 order (*See, e.g., Royal Park v. HSBC*, Dkt. No. 484) as extended by the Court’s August 6, 2018 order (*See, e.g., Royal Park v. HSBC*, Dkt. No. 486), the Parties submit this joint letter to propose a schedule for the remainder of the litigation and update the Court on the progress of discovery to date.

I. Proposed Scheduling Order

The Parties have met and conferred, and have reached an agreement regarding a joint schedule to govern these actions, attached hereto as Exhibit A. The structure of the Parties’ proposed schedule conforms to the guidance provided by the Court in its August 1, 2018 order and reflects compromises reached by all Parties throughout the meet and confer process.¹

II. Status of Third-Party Discovery

Third-party discovery is ongoing. Plaintiffs served (either jointly or separately) subpoenas on nearly 150 third-party entities. In response, approximately 9 million documents were produced. Plaintiffs provided HSBC with copies of third-party responses and productions received. As a consequence of the Court’s decision to preclude the use of expert evidence derived from sampling, Plaintiffs anticipate needing to serve additional subpoenas on third-party warrantor or servicer entities that were not previously subpoenaed and/or negotiate for additional responsive information from certain warrantor and servicer entities that were previously subpoenaed. HSBC anticipates issuing additional third party discovery as well. The parties have agreed to issue any additional

¹ Plaintiff Commerzbank notes that it only holds a certificate in one of the Bellwether Trusts. Commerzbank recognizes that the Court has established a coordinated Bellwether Trust process for the related actions and therefore supports the proposed case schedule. However, given that Commerzbank only has holdings in one Bellwether Trust, if the coordinated case schedule becomes more prolonged than anticipated, Commerzbank respectfully reserves its right to seek a modified schedule for the Commerzbank action.

subpoenas within two months of the entry of a scheduling order and to cooperate in obtaining materials from these third parties.

We appreciate the Court's attention to this matter, and the parties are willing to address any questions the Court may have.

Respectfully submitted,

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